



UNITED STATES MARINE CORPS  
MARINE CORPS SYSTEMS COMMAND  
2200 LESTER STREET  
QUANTICO, VIRGINIA 22134-5010

IN REPLY REFER TO:  
5720  
DON-USMC-2019-010271  
30 Mar 20

**Deliver via email to: [jkatz@iwpnews.com](mailto:jkatz@iwpnews.com)**

Mr. Justin Katz  
Inside Defense  
1919 S. Eads St  
Suite 101  
Arlington VA 22202

SUBJECT: FOIA DON-USMC-2019-010271

Dear Mr. Katz:

This responds to your Freedom of Information Act request dated August 15, 2019, requesting "in May 2018, the Marine Corps conducted a network infrastructure inventory reconciliation, culminating in a report identifying significant network vulnerabilities due to aging infrastructure. I request the resulting report created from this reconciliation process."

Your request is hereby partially denied. Following a careful review of the documents, portions of the Business Case Memorandum are found to be exempt from disclosure pursuant to FOIA Exemptions 5 U.S.C. § 552(b)(3), 5 U.S.C. § 552(b)(4), 5 U.S.C. § 552(b)(5), and 5 U.S.C. § 552(b)(6) and must be withheld in order to protect the submitter's proprietary and/or financial interests as well as personal privacy.

Specifically, FOIA Exemption 5 U.S.C. § 552(b)(3) precludes disclosure of an offeror's information if disclosure is prohibited by another statute. It is important to note that the Competition In Contracting Act of 1984 (CICA) and 10 U.S.C. § 2305(g), preclude the release of proposals and information contained within said proposals. In fact, CICA provides that "a proposal in the possession or control of [a military department] may not be made available to any person under section 552 of title 5." Id.

FOIA Exemption 5 U.S.C. § 552(b)(4) exempts from disclosure (i) voluntarily submitted commercial or financial information provided that the submitter does not "customarily" disclose the information to the public and provided that disclosure would be

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likely to interfere with the continued and full availability of the information to the government, or (ii) compelled information likely to cause substantial harm to the competitive position of the person from whom it was obtained and likely to impact on the government's ability to obtain reliable information in the future. See Critical Mass Energy Project v. NRC, 975 F2d 871, 879-80 (D.C. Cir. 1992), cert. denied, 113 S.Ct. 1579 (1993); National Parks & Conservation Ass'n v. Morton, 498 F2d 765, 766 (D.C. Cir. 1974); Canadian Commercial Corp. v. Dept. of Air Force, 514 F.3d 37 (D.C. Cir., 2008).

FOIA Exemption 5 U.S.C. § 552(b)(5) protects information that is deemed attorney/client privileged, attorney work product, prepared in anticipation of litigation, pre-decisional or reflects an opinion.

FOIA Exemption 5 U.S.C. § 552(b)(6) exempts disclosure of information that would constitute a clearly unwarranted invasion of personal privacy.

As of March 30, 2020, three hours of search and review (currently billed at \$48 per hour) has been expended during the processing of your request. Please remit a check or money order, **payable to the Treasurer of the United States** in the amount of \$144.00 to: COMMANDER, ATTN LAW, MARCORSYSCOM, 2200 LESTER STREET, SUITE 120, QUANTICO VA 22134-5010.

In view of the above, you may consider this to be an adverse determination that may be appealed to the Department of the Navy, Office of the General Counsel (ATTN: FOIA APPEALS), 1000 Navy Pentagon, Room 5A532, Washington, DC 20350-1000. Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe it should be granted. We recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal."

You also have the right to seek assistance and/or dispute resolution services from the Marine Corps FOIA Public Liaison, Ms. Sally Hughes, at [hqmcfoia@usmc.mil](mailto:hqmcfoia@usmc.mil) or (703) 614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil) or (703) 697-0031. You may also contact the Office of Government Information Services for assistance and/or dispute resolution at [ogis@nara.gov](mailto:ogis@nara.gov) or 1-877-684-6448. For more information online about services

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provided by OGIS, please visit their website at  
<https://ogis.archives.gov>.

Any questions concerning this matter should be directed to Mrs.  
Bobbie Cave at (703) 432-3934 or [bobbie.cave@usmc.mil](mailto:bobbie.cave@usmc.mil).

M. A.

M.A. MANNING  
Chief of Staff